

REMARKS / ARGUMENTS

Applicant wishes to thank the Examiner for discussing the outstanding Office Action and pending claims with the undersigned. During the discussion, various issues were discussed. It was discussed that Applicant believes the Ritland reference does not teach of a first and second support that cooperate to define a compression body receiving area for receiving a compression body of the type recited in Applicant's claim 1 for example.

Please note that the Applicant has amended the rejected claims to now recite the use of an adjuster for adjusting a relative position or amount of compression on a compression body of the supports after they are mounted to the vertebrae.

Referring now to page 2 of the Office Action, the Examiner rejects claims 1, 6-11, 16-21, 26, 28, 29, 37-40, 52-57, 60, 61, 64, 71-73, 98 and 99 under 35 U.S.C. 102(a) and 102(e) as being anticipated by Ritland (US 2003/0191470).

Ritland discloses a dynamic fixation device that allows the vertebrae to which it is attached to move in flexion within the normal physiological limits of motion, while also providing structural support that limits the amount of translation motion beyond normal physiological limits. The invention includes a flexible portion and two ends that are adapted for connection to pedicle screws.

On page 3 of the Office Action, the Examiner rejects claims 1-21, 26, 28-50, 52-57, 60, 61, 64-93, 98, 99 and 129-132 under 35 U.S.C. 102(e) as being anticipated by Arnin et al. (7,011,685).

Arnin et al. discloses a spinal prosthesis having a unitary body with at least three attachment points which are attachable to a spinal structure. The unitary body includes a flexure assembly positioned between the first and second attachment members, wherein the flexure of the flexure assembly permits movement of the first attachment member relative to the second attachment member.

Applicant traverses these references for reasons mentioned in Applicant's prior amendments and in view of the claims as now presented.

Neither Ritland nor Arnin et al. teach of the embodiments as now recited in these independent claims. Namely, they fail to recite the adjuster or adjustable tensioner or adjusting step as now claimed.

For all the forgoing reasons and in view of the claims as now presented, Applicant believes that these claims are patentable over the art of record. Applicant also believes that these claims are in condition for allowance and such allowance is respectfully requested.

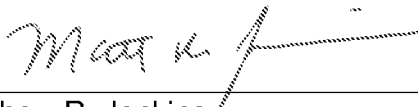
The Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-1287. Applicant hereby provides a general request for any extension of time which may be required at any time during the prosecution of the application. The Commissioner is also authorized to charge any fees which have not been previously paid for by check and which are required during the prosecution of this application to Deposit Account No. 50-1287. (Should Deposit Account No. 50-1287 be deficient, please charge any further deficiencies to Deposit Account No. 10-0220).

Applicant invites the Examiner to contact the undersigned via telephone with any questions or comments regarding this case.

Reconsideration and favorable action are respectfully requested.

Respectfully submitted,

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MRJ/ds
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